STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS

Date Introduced	**02/11/03**	Bill No:	**AB 357**
Tax:	**Property**	Author:	**Maze**
Board Position:		Related Bills:	**AB 1971 (1998)**

BILL SUMMARY

This bill would allow a board of supervisors in a county with a declining population to increase the value of possessory interests in a fairground, convention, or cultural facility that may be exempt from property tax under a "low value ordinance," from $50,000 to $100,000.

ANALYSIS

Current Law

Section 1(a) of Article XIII of the California Constitution provides that all property is taxable unless otherwise provided by that constitution or the laws of the United States. Section 7 of Article XIII provides that the Legislature, two-thirds of the membership of each house concurring, may authorize a county board of supervisors to exempt real property having a full value so low that, if not exempt, the total taxes and applicable subventions on the property would amount to less than the cost of assessing and collecting them.

The Legislature enacted Revenue and Taxation Code Section 155.20 to provide the necessary statutory implementation for this constitutional provision. It authorizes a county board of supervisors to exempt from property tax real property and personal property with a full value so low that, if not exempt, "the total taxes, special assessments, and applicable subventions on the property would amount to less than the cost of assessing and collecting them." This exemption is commonly referred to as the "low value ordinance" exemption.

Generally, the maximum value of property that may be exempted under a low value ordinance is $5,000. However, Section 155.20 allows counties to create a special low value ordinance to exempt from taxation possessory interests in certain publicly owned fairground, fairground facility, convention facility, or cultural facility with a maximum value of up to $50,000.

Proposed Law

This bill would amend Section 155.20 to increase the maximum value of possessory interests in fairground, cultural, or convention facilities that may be exempt from property tax under a low value ordinance, from $50,000 to $100,000 in counties that have a declining population based on information prepared by the Demographic Research Unit of the California Department of Finance.

In General

Possessory Interests. In certain instances a property tax assessment may be enrolled when a person or entity uses publicly owned real property that, with respect to its public owner, is either immune or exempt from property taxation. These uses are commonly referred to as "possessory interests" and are typically found where an individual or entity leases, rents or uses federal, state or local government facilities and/or land.

Revenue and Taxation Code Section 107 establishes parameters within which assessors and judicial authorities are to determine the existence of taxable possessory interests. Generally, those determinations are made according to the facts and circumstances in each individual case.

Low Value Ordinances. Section 1(a) of Article XIII of the California Constitution provides that all property is taxable unless otherwise provided by that constitution or the laws of the United States. Section 7 of Article XIII provides that the Legislature, two-thirds of the membership of each house concurring, may authorize a county board of supervisors to exempt real property having a full value so low that, if not exempt, the total taxes and applicable subventions on the property would amount to less than the cost of assessing and collecting them.

Revenue and Taxation Code Section 155.20 authorizes the low value exemption, subject to the existing $5,000 and $50,000 value cap. In determining the level of the exemption a board of supervisors is required to:

> "... determine at what level of exemption the costs of assessing the property and collecting taxes, assessments, and subventions on such property exceeds the proceeds to be collected. The board shall establish the exemption uniformly for different classes of property. In making this determination, the board may consider the total taxes, special assessments, and applicable subventions for the year of assessment only or for the year of assessment and succeeding years where cumulative revenues will not exceed the cost of assessments and collections."

Low Value Ordinances - Possessory Interests. A board of supervisors can enact an ordinance to exempt property with a total base year value or full value of less than $50,000 in the case of a possessory interest, for a temporary and transitory use, in a publicly owned fairground, fairground facility, convention facility, or cultural facility.

A "publicly owned convention or cultural facility" means a publicly owned convention center, civic auditorium, theater, assembly hall, museum, or other civic building that is used primarily for staging any of the following:

- Conventions, trade and consumer shows, or civic and community events.
- Live theater, dance, or musical productions.
- Artistic, historic, technological, or educational exhibits.

Background

Related Legislation. The $50,000 low value ordinance for possessory interests was added to the Revenue and Taxation Code in 1996 by Senate Bill 1737 (Ch. 570, Stats. 1996, Alquist). The City of San Jose sponsored the measure over a concern that the taxation of San Jose Convention Center users would place their convention center at a competitive disadvantage with other event venues. As enacted, the $50,000 exemption for possessory interests was limited to uses of publicly owned convention or cultural facilities. The following year, Senate Bill 33 (Ch. 106, Stats. 1997, Maddy) added possessory interests in fairgrounds to the type of possessory interests that could be exempt under the $50,000 low value ordinance.

Assembly Bill 1971 (Ackerman) of the 1998 legislative session would have amended Section 155.20 to increase from $50,000 to $100,000 the value of possessory interests in fairgrounds and convention or cultural centers that may be exempted under a low value ordinance adopted by a county board of supervisors. AB 1971 was sponsored by the City of Anaheim which did not agree that short term uses of the Anaheim Convention Center should be subject to property tax. The City believed that the taxation of convention center users could draw business away from their center and AB 1971 was intended to provide that short term users of the convention center were not subject to a property tax assessment.

Unlike this measure, AB 1971 would have been applicable to all counties, regardless of population. AB 1971 was ultimately amended to instead exempt from property taxation any interest or use of public property that is not more than seven calendar days in a calendar year by finding that such an interest lacks the element of durability necessary to constitute a possessory interest. In this form, AB 1971 failed passage in the Assembly Appropriations Committee, but was selected as an item for consideration in the 1998 budget conference committee. In the end, no changes were enacted.

COMMENTS

1. **Sponsor and Purpose.** This bill is sponsored by the author. According to the author, its intent is "to provide a progressively structured tax break to qualifying smaller California counties to encourage tourist and convention traffic in areas that are already faced with significant budgetary challenges. A lower tax will encourage more trade shows and conventions to locate in these counties, with the associated spending contributing to the local economies."

2. **Counties with a Declining Population.** According to information published by the Department of Finance, http://www.dof.ca.gov/HTML/DEMOGRAP/Druhpar.htm, between July 2001 and July 2002, five counties had a decline in population and two counties had no change in their population. Of these seven counties, only Lassen and Inyo have enacted a low value ordinance for possessory interests at the $50,000 level.

Declining Population		**No Change in Population**
Lassen	-150	**Inyo**
Modoc	-125	Plumas
San Mateo	-1,100	
Sierra	-10	
Siskiyou	-50	

3. **Counties with Possessory Interests Low Value Ordinances.** Although there is existing statutory authority to exempt possessory interests under either the $5,000 or $50,000 low value ordinance provisions of Section 155.20, not all counties have adopted low value ordinances. Forty-five of the 58 county boards of supervisors have approved low value ordinances. The BOE is aware of nine county boards of supervisors that have adopted the special low value ordinance for possessory interests. Seven at the $50,000 level and two at the level of $15,000.

Ordinance Exemption Level

$50,000		**$15,000**
Imperial	Madera	Nevada
Inyo	Orange	Shasta
Lassen	Yolo	
Los Angeles		

4. **As currently drafted, this bill does not appear to expand the number of possessory interest assessments eligible for exemption.** BOE staff contacted each county with a declining population or no growth for 2002 and found that either (1) the county did not have a possessory interest low value ordinance exemption or (2) the county had an ordinance, but no assessments with a value between the $50,000 and $100,000 thresholds, which would be exempt if the ordinance was increased from $50,000 to $100,000. Thus, it does not appear that this bill would have an immediate effect.

5. **This bill would set a precedent for allowing different maximum value threshold levels in counties based on a special characteristic of the county.** As a county optional program, there is not statewide uniformity in the enactment of low value ordinances for either property generally or possessory interests specifically. However, each county has an equal opportunity to consider and enact the ordinance at the same maximum level.

6. **Level of Exemption**. Possessory interests for temporary and transitory uses of a publicly owned fairground, convention, or cultural facility can be difficult and administratively burdensome for counties to track and discover due to their short-term nature. The low value ordinance exemption is intended to recognize the practical reality that, notwithstanding the constitutional requirement that all property be taxed, certain assessments are not cost effective to pursue. Assuming a 1 percent tax rate and no special assessments, property valued at $50,000 would generate annual revenues of $500; property valued at $100,000 would generate annual revenues of $1,000.

COST ESTIMATE:

The Board would incur some minor absorbable costs in informing and advising county assessors, the public and staff of the law changes.

REVENUE ESTIMATE

Background, Methodology, and Assumptions

Existing property tax law permits a county board of supervisors to exempt from property taxation those properties having a full value too low to justify the costs of assessment and collection. The level of the exemption may not exceed $5,000 except that the limit is increased to $50,000 in the case of a limited term use possessory interest in a publicly owned fairground, fairground facility, convention facility, or cultural facility.

This bill would increase the exemption specific to possessory interest from $50,000 to $100,000 for a qualified county. A qualified county means a county in which the total population, as of July 1, has decreased since the immediately preceding July 1. In the Department of Finance's most recent population estimate, five counties declined in population as of July 1, 2002, and two counties had no change in its population.

BOE staff contacted those counties with declining or steady populations and either (1) the county does not have a possessory interest low value ordinance exemption or (2) the county has such an exemption, but no assessments with a value between $50,000 and $100,000, which would be exempt if the ordinance was increased to $100,000.

Revenue Summary

Increasing the low value property exemption related to limited term use possessory interests to $100,000 would have no immediate effect on revenue.

Analysis prepared by:	Rose Marie Kinnee	916-445-6777	3/28/03
Revenue estimate by:	Bill Benson Jr.	916-445-0840	
Contact:	Margaret S. Shedd	916-322-2376	

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This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.